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October 27, 2003

VIA FEDERAL EXPRESS

April Sands, Esq.
Federal Election Commission
999 E Street, NW
Washington, DC 20463-0001

Re: MUR 5357/Centex Corporation – Kathryn Young Glenewinkel

Dear Ms. Sands:

I represent Kathryn Young Glenewinkel in the above-referenced matter. The purpose of this letter is to respond to the Federal Election Commission's (hereinafter referred to as the "Commission") correspondence dated September 24, 2003 informing Mrs. Glenewinkel – for the first time – that she was under investigation for campaign contribution violations, and simultaneously finding that there was reason to believe Mrs. Glenewinkel violated Section 441(f) of the Federal Election Campaign Act of 1971 ("the Act"). Mrs. Glenewinkel now requests that the Commission reverse that finding and instead, find that there is no reason to believe that Mrs. Glenewinkel violated the Act in any manner. Mrs. Glenewinkel further requests that the Commission take no action as to her because she had no involvement in the alleged campaign contribution violations at issue in the above-referenced matter. Consequently, Mrs. Glenewinkel is not interested in entering into conciliation negotiations with the Commission.

Mrs. Glenewinkel is the wife of Gary Glenewinkel – an executive at Centex Rooney Construction Company (hereinafter "Centex Rooney" or the "Company") – who happened to have made two of the political contributions that her husband, Mr. Glenewinkel, was reportedly reimbursed for in his Company bonus.¹ Mrs. Glenewinkel made the two contributions at issue

¹ While the Commission's September 24, 2003 correspondence indicates that Mrs. Glenewinkel made three contributions that her husband was reimbursed for by the Company, thorough investigation by Mrs. Glenewinkel, and the investigation by Arnold & Porter LLP as documented in its February 27, 2003 submission to the Commission, only revealed two such

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of her own volition, from her personal checking account, to two political candidates she supported, while attending fundraisers she was invited to attend by close personal friends. *Mrs. Glenewinkel's contributions had nothing to do with anyone at Centex Rooney, and were not made at the behest of anyone at Centex Rooney.* Mrs. Glenewinkel was never told that her husband gave copies of her two contribution checks to anyone at Centex Rooney, or that he was reimbursed for those two contributions. Mrs. Glenewinkel was never reimbursed herself for the two contributions at issue, and in fact, the Commission has not even charged that Mrs. Glenewinkel herself was reimbursed for those contributions. Attached to this Response is the sworn affidavit of Mrs. Glenewinkel that, along with the submission by Arnold & Porter LLP on behalf of Centex Corporation, makes clear that Mrs. Glenewinkel did not violate the Act in any manner, much less knowingly and willfully, and no action should be taken against her by the Commission.

FACTUAL BACKGROUND

Mrs. Glenewinkel has been married to Mr. Glenewinkel, current Executive Vice President and Chief Operating Officer for South Florida Operations at Centex Rooney, for approximately four years. As you know, Centex Corporation, through its attorneys Arnold & Porter LLP, voluntarily notified the Commission that Centex Rooney, a subsidiary of Centex Construction Group, Inc. ("CCG"), in turn a subsidiary of Centex Corporation, may have violated the Act by reimbursing employees for political contributions. Specifically, during Bob Moss's ("Moss") tenure as Chairman of Centex Rooney and former CEO of CCG, and at his direction, Centex Rooney executives sent copies of checks for political contributions to Mr. Moss or Gary Esporin - former Chief Finance Officer of Rooney and former Co-Chief Finance Officer of CCG. Mr. Glenewinkel, Mrs. Glenewinkel's husband, was one of the executives at Centex Rooney who reportedly forwarded copies of political contributions to Mr. Moss or Mr. Esporin. Two of the check copies Mr. Glenewinkel reportedly forwarded to the Company, and was reimbursed for, reflected a \$500 contribution made by Mrs. Glenewinkel to McCollum for Senate in March of 2000, and a \$1000 contribution made by Mrs. Glenewinkel to Clay Shaw in October of 2000.

Importantly, there was zero evidence submitted to the Commission indicating that Mrs. Glenewinkel ever knew her husband forwarded copies of her two political contributions to anyone at Centex Rooney. Moreover, there was no evidence that Mrs. Glenewinkel made the two contributions at issue here at the behest of anyone else, including her husband, or for the benefit of her husband's business. In fact, Mrs. Glenewinkel's affidavit makes clear that she made the two contributions at issue here because she voluntarily supported the candidates. Moreover, Mrs. Glenewinkel and her husband attended the fundraisers for both candidates, McCollum and Shaw, after Mrs. Glenewinkel received invitations at her home for the

contributions - one to McCollum for Senate for \$500 in March 2000 and another to Clay Shaw for \$1000 in October 2000.

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fundraisers, and not because anyone associated with Mr. Glenewinkel's business invited them, or requested that they attend.

Specifically, with regard to the McCollum contribution, Mrs. Glenewinkel's close friends, who have nothing to do with Mr. Glenewinkel's business, invited Mrs. Glenewinkel and her husband to attend the McCollum fundraiser. Mrs. Glenewinkel then wrote a check to the McCollum campaign from her own personal checking account. With regard to the Shaw contribution, Mrs. Glenewinkel's family has known Shaw for over 40 years, and has contributed to his various campaigns often. In fact, Mrs. Glenewinkel had been to the Shaw family farm, where the fundraiser at which she made her contribution to Shaw was held, on at least one prior occasion. She made her contributions to McCollum and Shaw because she supported their campaigns, and not because anyone at Centex Rooney, including her husband, encouraged her to make the contributions. Mrs. Glenewinkel did not intend to be reimbursed for her contributions to McCollum and Shaw and in fact, Mrs. Glenewinkel never was reimbursed by anyone for those contributions.

NO VIOLATION OF FEDERAL CAMPAIGN CONTRIBUTION LAWS

The affidavits from Mrs. Glenewinkel and Mr. Glenewinkel, along with the Arnold & Porter LLP submission – reflecting the results of the Company's internal investigation – and even the Factual and Legal Analysis of the Commission, fail to reveal any facts indicating that Mrs. Glenewinkel made contributions in the name of another in violation of Section 441(f). There has certainly been no evidence that Mrs. Glenewinkel committed any knowing and willful violation of the Act. A knowing and willful violation of the Act "must necessarily connote 'defiance or such reckless disregard of the consequences as to be equivalent to a knowing, conscious, and deliberate flaunting of the Act.'" *American Federation of Labor v. Federal Election Commission*, 628 F.2d 97, 101 (D.C. Cir. 1980), quoting *Frank Greg, Jr., Inc. v. OSHA*, 519 F.2d 1200 (3rd Cir. 1975). At a minimum, a knowing and willful violation can only be made when one knows he is violating the law. *Federal Election Commission v. John A. Dramesi for Congress Committee*, 640 F. Supp. 985, 987 (D. N.J. 1986).

Mrs. Glenewinkel is simply the wife of one of the executives at Centex Rooney who reportedly received reimbursements from the Company for his own, and two of Mrs. Glenewinkel's, political contributions. Mrs. Glenewinkel did not know about the reimbursements to her husband, and was never reimbursed herself for the two contributions at issue, either by Centex Rooney or by Mr. Glenewinkel. Further, Mrs. Glenewinkel did not, and still does not, know anything about the bonus program that reportedly contained the contribution reimbursements for Centex Rooney executives. Mrs. Glenewinkel did not make a contribution in the name of another – she simply made two voluntary contributions of her own for which her husband gave check copies, without her knowledge, to others at Centex Rooney. There was certainly no evidence that Mrs. Glenewinkel ever intended, when she made her two voluntary

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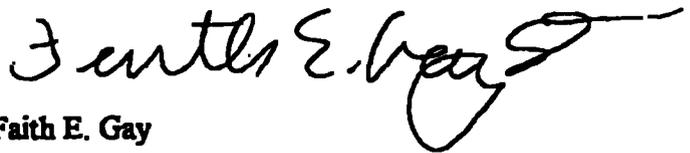
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contributions, to make contributions in the name of another – foreclosing the possibility that Mrs. Glenewinkel made a knowing and willful violation of the Act.

CONCLUSION

As Mrs. Glenewinkel did not violate the Act in any way, and certainly did not make any knowing and willful violation of the Act, she is not interested in entering into conciliation negotiations. Further, I respectfully request that the Commission reverse its decision finding reason to believe that Mrs. Glenewinkel violated the Act, and find no reason to believe Mrs. Glenewinkel violated the Act. I further request that the Commission close the file in this matter as to Mrs. Glenewinkel.

Best regards,



Faith E. Gay

FEG:w

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AFFIDAVIT OF KATHRYN YOUNG GLENEWINKEL

1. My name is Kathryn Young Glenewinkel. I have been married to Gary Glenewinkel for four years. My husband is currently Executive Vice President and Chief Operating Officer of Centex Rooney.
2. Prior to marrying my husband, Gary, I was very active in my community. Since marrying Gary, I continue to be active in the community, including donating often to charities and making political contributions to candidates I support. I have been an active Republican since I was 18 years of age.
3. I made a contribution in March of 2000 for \$500 to McCollum for Senate, and a contribution for \$1000 to Clay Shaw in October 2000. I was just informed, *after* receipt of the Commission's correspondence dated September 24, 2003, that it is alleged that these two voluntary political contributions of mine were reimbursed to my husband by Centex Rooney.
4. Both the McCollum and the Shaw contributions were my own, voluntary contributions to candidates I supported, and had nothing to do with the company my husband works for - Centex Rooney.
5. My contribution to McCollum was made at a fundraiser thrown for McCollum by my good friends, Dr. Harry and Ann Marie Moon, at their home. My children grew up with Ann Marie and Harry's children. My husband and I attended the fundraiser at the Moon home after being invited by Ann Marie and Harry. The invitation for the McCollum fundraiser came to me in a telephone call from Ann Marie Moon, and did not come from anyone at Centex Rooney or any other person associated with my husband's business.
6. The McCollum contribution was my idea, and not my husband's suggestion, and I wrote the check to McCollum from my own personal checking account. Centex Rooney had nothing to do with my McCollum contribution.
7. My family has known E. Clay Shaw, Jr. for over 40 years, and has contributed to his various campaigns over the years.
8. I have attended a number of fundraisers for E. Clay Shaw, Jr. over the years. In October 2000, I attended a fundraiser for E. Clay Shaw, Jr. I am long-time friends with the organizers of the fundraiser, and consequently, received an invitation to the fundraiser, addressed to me, at my home.
9. I made my contribution to Shaw, at the fundraiser, of my own volition because I supported Shaw's candidacy. Moreover, prior to the fundraiser, Shaw had written a letter of recommendation to the Naval Academy for my nephew, who has since graduated from the Naval Academy.
10. No person at Centex Rooney had anything to do with my Shaw contribution. In fact, my husband did not encourage the contribution in any way. I wrote the

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contribution check to Shaw, from my own personal bank account, because I supported Shaw's candidacy.

11. I never had any discussion with my husband prior to making the McCollum and Shaw contributions during which we discussed Centex Rooney reimbursing those contributions. I did not know that my husband forwarded copies of the checks for the contributions to McCollum and Shaw to anyone at Centex Rooney. Further, I was never told by my husband, or anyone else for that matter, that he was reimbursed by Centex Rooney for my contributions to McCollum and Shaw. In fact, I was never told by my husband, or anyone else, that my husband was reimbursed for contributions to any political candidates until I received the Commission's September 24, 2003 correspondence.

12. I personally was never reimbursed by anyone, including my husband, for the McCollum and Shaw contributions, or any other contribution for that matter.

FURTHER AFFIANT SAYETH NOT

Kathryn Young Glenewinkel
KATHRYN YOUNG GLENEWINKEL

STATE OF Florida
COUNTY OF Broward

The foregoing instrument was acknowledged before me this 27 day of October, 2003 by Kathryn Young Glenewinkel, who is personally known to me or who has produced as identification and who did take an oath.

Amy Jo Walters
Notary Public, at Large

State of Florida

Amy Walters
Print Name



Amy Jo Walters
Commission #DD146293
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